

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUAYE KHATIB,

Plaintiff,

v.

SCI WASHINGTON FUNERAL
SERVICES, et al.

Defendants.

CASE NO. C12-34RAJ

ORDER

This matter comes before the court on plaintiff's "Motion to Compel Further Deposition Testimony, for Discovery, and for Other Relief." Dkt. # 27. Plaintiff asks the court to "(1) require Defendants SCI to make Jon Gordon available for a short deposition regarding the responsive document 'discovered' by Defendants long after his deposition; (2) allow Plaintiff to take a 30(b)(6) of the corporate designee knowledgeable about the search for the documents, how responsive documents were discovered after Gordon's deposition, and why document related to Kerns making racist statements [were] never produced; (3) compel Defendant SCI Washington to make Hank Kerns available for a short deposition regarding the responsive discrimination complaint not provided to Plaintiff . . . and any additional discovery warranted by the testimony . . .; and (4) for attorney's [fees] incurred by Plaintiff for this additional discovery and associated costs, including court reporter fees and transcripts." *Id.* at 2-3.

1 This case was removed to this court on January 6, 2012. On February 20, 2013,
2 the court granted the parties' motion to continue trial to October 15, 2013. Dkt. # 25.
3 The discovery cutoff was April 26, 2013, and dispositive motions were due May 30,
4 2013. Plaintiff has not provided sufficient explanation for why he did not bring this
5 motion prior to the discovery cutoff. The fact that mediation was delayed or that the
6 parties may have agreed to delay discovery (without court approval) until after mediation
7 is not sufficient to justify the untimely motion.

8 Nor is the requested relief in plaintiff's motion to compel similar to the motion for
9 sanctions for spoliation of evidence in *Equal Emp't Opp. Comm'n v. Fry's Elec.*, 874 F.
10 Supp. 2d 1042 (W.D. Wash. 2012), as argued by plaintiff in reply. In that case, Judge
11 Lasnik specifically noted:

12 Although defendant argues that the motion is actually a discovery motion
13 that should have been filed before the discovery cutoff, plaintiffs request
14 that the Court determine whether defendant willfully destroyed relevant
15 evidence in a way that undermines the integrity of this proceeding and, if
16 so, the appropriate remedy therefore. Except as noted below, plaintiff is
not seeking to compel additional discovery: rather, plaintiff seeks a
dispositive sanction for litigation misconduct.

17 *Id.* at 1044.

18 In contrast, the only requested relief here is additional discovery and costs and fees
19 associated with the additional discovery. Plaintiff's motion is a discovery motion, and it
20 is untimely.

21 For all the foregoing reasons, the court DENIES plaintiff's motion to compel.
22 Dkt. # 27.

23 Dated this 1st day of July, 2013.

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25

26 The Honorable Richard A. Jones
27 United States District Judge